

And

In the matter of Fourcee
Infrastructure Equipments
Private Limited
(in liquidation)

Standard Chartered Bank ... Petitioner

Mr. Rishabh Sheth for official liquidator.

Mr. Chetan Shelke, Assistant Official Liquidator.

Ms. Bhagyashri Gawas, i/b. C. K. Tripathi for noticee No.3.

CORAM : MANISH PITALE, J.

DATE : 12th JANUARY, 2024

P.C. :

. These two official liquidator's reports pertain to incidents of theft that have taken place from the property of the company in liquidation. The official liquidator is seeking appropriate directions in the matter, including permission to take appropriate action against the concerned security agency i.e. Kushang Security and Protection Services.

2. The learned counsel appearing for the official liquidator referred to the documents filed alongwith the two reports.

3. In Official Liquidator's Report No.7 of 2023, a copy of a letter dated 22.07.2022 is annexed. It was addressed by the official liquidator to the said security agency, informing the agency about the information received on 16.07.2022 from the security personnel of the said security agency that about six months prior to the said date, certain movement of containers was noticed by the villagers. It is the case of the official liquidator that certain containers were found missing from the property and the deficiency in the service provided by the security agency, was evident from the said incident.

4. In this context, the learned counsel appearing for the official liquidator invited attention of this Court to the response letter dated 29.07.2022, sent by the security agency to the official liquidator. This Court has perused the contents of the said letter, which show the casual approach of the security agency, particularly in the light of the statements made in paragraphs (a) and (d) of the said letter.

5. Apart from this, attention of this Court was invited to the documents filed with the Official Liquidator's Report No.168 of 2023. In a letter dated 31.08.2023, addressed by the security agency to the official liquidator, it was admitted that theft also took place in the midnight of 12.08.2023 and 13.08.2023, when six containers were stolen and that this was due to absenteeism of the night shift security guards. It is relevant to note that F.I.R. dated 26.08.2023 was eventually registered at Police Station Anjar, District Kutch, at the behest of the said security agency.

6. On the basis of the aforesaid material, the learned counsel for the official liquidator submits that the directions, as per prayers made in both the reports, may be granted. It is further brought to the notice of this Court

that as per press note dated 01.09.2023, issued by the concerned police station, annexed to the Official Liquidator's Report No.168 of 2023, scrap pertaining to the containers was recovered, when the accused were arrested and a cash amount of Rs.9,18,000/- was also recovered from them.

7. A perusal of the prayers sought in the Official Liquidator's Report No.7 of 2023 shows that the direction sought at prayer clause (a), has worked itself out, inasmuch as the aforesaid F.I.R. has already been registered. Therefore, no orders are necessary as regards prayer clause (a) of the said official liquidator's report.

8. In prayer clause (b) of the Official Liquidator's Report No.7 of 2023, the official liquidator has sought permission to remove the security agency from the said assignment and to deploy another agency from the panel of security agencies maintained by the official liquidator.

9. The learned counsel for the security agency has tendered an affidavit of the proprietor of the security agency in Official Liquidator's Report No.7 of 2023. A perusal of the contents of the affidavit shows that an unconditional apology is tendered. But, there is nothing to show that either the aforesaid incidents are denied or any plausible explanation is given for the obvious deficiency on the part of the security agency. The affidavit is taken on record of the official liquidator's report. This Court is convinced that directions sought at prayer clause (b), deserve to be granted, in the facts and circumstances of the present case, particularly in the light of the casual approach shown by the said security agency, when the incidents of theft were brought to its notice. Hence, direction at prayer clause (b) in Official Liquidator's Report No.7 of 2023 is granted and the said official liquidator report is disposed of.

10. Insofar as Official Liquidator's Report No.168 of 2023 is concerned, as per direction at prayer clause (a), the official liquidator is seeking a direction to the Police Inspector of Anjar Police Station to submit the investigation report and a further direction is sought for handing over the aforesaid cash amount and the scrap of the stolen containers recovered from the accused. This Court is of the opinion that since the police is investigating the matter, it would be the jurisdictional magistrate, who would be able to exercise jurisdiction in respect of the same. The police is expected to complete the investigation at the earliest and to file appropriate report before the jurisdictional magistrate.

11. Liberty is granted to the official liquidator to approach the jurisdictional magistrate for appropriate directions with regard to the recovered cash and the scrap of the stolen containers. The direction sought at prayer clause (a) is disposed of in the aforesaid manner.

12. Insofar as prayer clause (b) in Official Liquidator's Report No.168 of 2023 is concerned, the official liquidator is seeking permission to remove the said security agency from the panel of the security agencies, maintained by the official liquidator. Since granting the aforesaid direction would result in the services of the said security agency being withdrawn in respect of all the companies in liquidation, where its services have been engaged, this Court is of the opinion that an opportunity can be granted to the security agency to file reply affidavit in the aforesaid official liquidator's report.

13. Reply affidavit be filed within two weeks from today.

14. List the official liquidator's report for further consideration on 02.02.2024 at 02:30 p.m.

(MANISH PITALE, J.)